

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 813 Protection of Vulnerable Investors

SPONSOR(S): McClure

TIED BILLS: IDEN./SIM. **BILLS:** SB 1672

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Hinshelwood	Cooper
2) Children, Families & Seniors Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Although investment fraud is not a new occurrence in the financial marketplace, recent economic forces such as the rise of technology and the information age have created an environment conducive to swindlers practicing their craft. In an effort to address financial exploitation of seniors, the Financial Industry Regulatory Authority (FINRA), of which most securities broker-dealers are members, implemented rules to provide its members with the ability to place a hold on a disbursement of funds or securities from a customer's account if they have a reasonable basis to believe that financial exploitation of a "specified adult" has occurred, is occurring, has been attempted, or will be attempted. The term "specified adult" refers to a natural person age 65 and older; or a natural person age 18 and older who the FINRA member reasonably believes has a mental or physical impairment that renders the individual unable to protect his or her own interests. These rules took effect February 5, 2018. However, they do not apply to broker-dealers and investment advisers who are not FINRA members.

Similar to the FINRA rules, the bill allows a dealer or investment adviser to delay a transaction on, or disbursement of funds or securities from, the account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner if the dealer or investment adviser reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the transaction or disbursement. A specified adult is an individual who is age 65 or older or who meets the definition of "vulnerable adult" under Florida's Adult Protective Services Act.

The suspected exploitation must be immediately reported to the Florida Abuse Hotline if so required by the Adult Protective Services Act. Within three business days of placing a delay, the dealer or investment adviser must notify all parties authorized to transact business on the account as well as any designated trusted contact, unless such person is believed to be engaged in the suspected exploitation. Within three business days of placing or extending a delay, the dealer or investment adviser must notify the Office of Financial Regulation of the delay or extension and the reason for it.

A delay expires in 15 business days but may be terminated sooner. The dealer or investment adviser may extend the delay for up to an additional 10 business days. The length of the hold may be shortened or extended by a court of competent jurisdiction. The bill requires a dealer or investment adviser to have training policies or programs reasonably designed to educate associated persons on issues pertaining to exploitation. A dealer, investment adviser, or associated person is presumed to be acting based upon a reasonable belief and is immune from civil or administrative liability, unless lack of such reasonable belief is shown by a preponderance of the evidence.

The bill has no fiscal impact on local governments, an indeterminate fiscal impact on state government, and an indeterminate positive fiscal impact on the private sector.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Federal Securities Regulation

The federal Securities Exchange Act of 1934 ('34 Act) requires registration of securities market participants like broker-dealers and exchanges.¹ Generally, any person acting as “broker” or “dealer” as defined in the '34 Act must be registered with the United States Securities and Exchange Commission (SEC) and join a self-regulatory organization (SRO), like the Financial Industry Regulatory Authority (FINRA) or a national securities exchange. The '34 Act broadly defines “broker” as “any person engaged in the business of effecting transactions in securities for the account of others,” which the SEC has interpreted to include involvement in any of the key aspects of a securities transaction, including solicitation, negotiation, and execution.² A “dealer” is “any person engaged in the business of buying and selling securities . . . for such person's own account through a broker or otherwise.”³ Certain entities in the securities industry are often referred to as “broker-dealers” because the institution is a “broker” when executing trades on behalf of a customer, but is a “dealer” when executing trades for its own account. In addition to being registered with the SEC, broker-dealers must comply with state registration requirements.

State Securities Regulation

In addition to federal securities laws, “Blue Sky Laws” are state laws designed to protect investors against fraudulent sales practices and activities by requiring companies making offerings of securities to register their offerings before they can be sold in that state and by requiring licensure for brokerage firms, their brokers, and investment adviser representatives.⁴

In Florida, the Office of Financial Regulation's (OFR's) Division of Securities oversees the Securities and Investor Protection Act, ch. 517, F.S., which regulates the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals affiliated with these firms.

The Securities and Investor Protection Act requires the following individuals or businesses to be registered with OFR under s. 517.12, F.S., in order for such persons to sell or offer to sell any securities in or from offices in this state, or to sell securities to persons in this state from offices outside this state:⁵

- “Dealers,” which include:⁶
 - Any person, other than an associated person registered under ch. 517, F.S., who engages, either for all or part of her or his time, directly or indirectly, as broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.
 - Any issuer who through persons directly compensated or controlled by the issuer engages, either for all or part of her or his time, directly or indirectly, in the business of offering or selling securities which are issued or are proposed to be issued by the issuer.
- “Investment advisers,” which:⁷

¹ 15 U.S.C. §§ 78c(a)(4) and 78o; U.S. Securities and Exchange Commission, *Guide to Broker-Dealer Registration*, <http://www.sec.gov/divisions/marketreg/bdguide.htm#II> (last visited Jan. 10, 2020).

² *Id.*

³ 15 U.S.C. §§ 78c(a)(5).

⁴ U.S. Securities and Exchange Commission, *Blue Sky Laws*, <http://www.sec.gov/answers/bluesky.htm> (last visited Jan. 10, 2020).

⁵ S. 517.12(1), F.S.

⁶ S. 517.021(6)(a), F.S. The term “dealer”, as defined under Florida law, encompasses the definitions of “broker” and “dealer” under federal law.

⁷ S. 517.021(14)(a), F.S.

- Include any person who receives compensation, directly or indirectly, and engages for all or part of her or his time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities, except a dealer whose performance of these services is solely incidental to the conduct of her or his business as a dealer and who receives no special compensation for such services.
- Does not include a “federal covered adviser.”⁸
- “Associated persons,” which include:⁹
 - With respect to a dealer or investment adviser, any of the following:
 - Any partner, officer, director, or branch manager of a dealer or investment adviser or any person occupying a similar status or performing similar functions;
 - Any natural person directly or indirectly controlling or controlled by such dealer or investment adviser, other than an employee whose function is only clerical or ministerial; or
 - Any natural person, other than a dealer, employed, appointed, or authorized by a dealer, investment adviser, or issuer to sell securities in any manner or act as an investment adviser as defined in s. 517.021, F.S.
 - With respect to a federal covered adviser, any person who is an investment adviser representative and who has a place of business in this state.

Vulnerability of Seniors to Investment Fraud

Although investment fraud is not a new occurrence in the financial marketplace, recent economic forces have created an environment conducive to swindlers practicing their craft.¹⁰ Such economic forces include:¹¹

- The decline of traditional pensions, which has resulted in fewer Americans relying on expert money managers to invest their retirement funds in a fast-moving and complex investment market.
- The rise of technology, which has made it significantly easier for scammers to reach a broad set of investors with sophisticated robotic and predictive telephone dialing, email, television, and social media.
- The rise of the information age, which has given scammers unlimited access to personal information about investors, making it easier for them to customize their messages and harder for investors to discern who is truly on their side.

In recent years, financial research has focused on understanding the vulnerability of seniors to investment fraud. In a 2012 study prepared for the FINRA Investor Education Foundation, adults 65 and older were found to be more likely than those who are younger to receive solicitations in the mail and over the telephone.¹² Survey respondents age 65 and older were also more likely to be solicited for fraud, more likely to engage with potentially fraudulent financial opportunities, and more likely to have lost money.¹³

A more recent study sponsored by AARP sought to identify psychological, behavioral, and demographic risk factors that might make investors more vulnerable to investment fraud.¹⁴ The study identified the following psychological risk factors:¹⁵

⁸ S. 517.021(9), (14)(b)9., F.S. A federal covered adviser must be registered under federal law and must provide a notice-filing to OFR. Ss. 517.021 and 517.1201, F.S.

⁹ S. 517.021(2), F.S.

¹⁰ Doug Shadel and Karla Pak, *AARP Investment Fraud Vulnerability Study*, AARP (2017), https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2017/investment-fraud-vulnerability.doi.10.26419%252Fres.00150.001.pdf (last visited Jan. 10, 2020).

¹¹ *Id.*

¹² FINRA Investor Education Foundation, *Financial Fraud and Fraud Susceptibility in the United States: Research Report from a 2012 National Survey*, 11 (Sept. 2013), https://www.finrafoundation.org/sites/finrafoundation/files/Financial-Fraud-And-Fraud-Susceptibility-In-The-United-States_0_0_0.pdf (last visited Jan. 10, 2020).

¹³ *Id.* at 17-18.

¹⁴ Doug Shadel and Karla Pak, *supra* note 10, at 14.

¹⁵ *Id.*

- Belief that accumulation of wealth is an important measure of success in life.
- Openness to new opportunities presented by salespersons.
- Belief that the most profitable investments are those not regulated by the government.
- Belief in taking chances with one's money if those chances are likely to pay off.

Many behavioral factors that put victims at risk flow directly from the psychological risk factors above.¹⁶ The mindset of openness to sales pitches may result in signaling a desire to be pitched with investment opportunities.¹⁷ Compared to the general investor population, more fraud victims engaged in active trading of five or more trades in a year, and the victims were more likely to make remote investments.¹⁸ As for demographic risk factors, the study found that many more of the victims were older (age 70+), male, married, and veterans.¹⁹

In 2013, the Financial Crimes Enforcement Network (FinCEN), which receives and maintains the database of suspicious activity reports (SARs),²⁰ introduced electronic SAR filing with a designated category for "elder financial exploitation".²¹ Recent analysis of SARs related to elder financial exploitation has revealed the following:

- Among the SARs that reported a loss to an older adult, the average amount lost was \$34,200; in 7 percent of these SARs, the loss exceeded \$100,000.²²
- One-third of the individuals who lost money were ages 80 and older, and adults ages 70 to 79 had the highest average monetary loss (\$45,300).²³
- Where an individual has incurred an actual loss, the amount of loss reflects substantial financial hardship for elders: The median suspicious activity amount from one sample of scam-related SARs was \$6,105, and for theft-related SARs it was \$15,964. These amounts represent 16 and 41 percent, respectively, of the median income of \$38,515 for households maintained by individuals 65 and over in 2015 (as reported by the U.S. Census Bureau).²⁴
- The total number of SAR filings and total suspicious activity amounts increased 20 percent and 30 percent, respectively, each year during the period studied (October 2013 – August 2019).²⁵

FINRA Rules Relating to Financial Exploitation of Seniors

FINRA is an SRO regulated by the United States Security Exchange Commission. Most broker-dealers in the United States are members of FINRA. As members, such broker-dealers are subject to FINRA rules and examination by FINRA. In an effort to address financial exploitation of seniors, FINRA implemented rules to provide its members with a way to respond to situations in which they have a reasonable basis to believe that financial exploitation of a "specified adult" has occurred, is occurring, has been attempted, or will be attempted.²⁶

FINRA defines "specified adult" and "financial exploitation" as follows:

¹⁶ *Id.* at 15.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 6 and 15.

²⁰ A SAR "is a document that financial institutions, and those associated with their business, must file with the Financial Crimes Enforcement Network (FinCEN) whenever there is a suspected case of money laundering or fraud. These reports are tools to help monitor any activity within finance-related industries that is deemed out of the ordinary, a precursor of illegal activity, or might threaten public safety." Thomson Reuters, *What is a suspicious activity report?*, <https://legal.thomsonreuters.com/en/insights/articles/what-is-a-suspicious-activity-report> (last visited Jan. 10, 2020).

²¹ Consumer Financial Protection Bureau, *Suspicious Activity Reports on Elder Financial Exploitation: Issues and Trends*, 3 (Feb. 2019), https://files.consumerfinance.gov/f/documents/cfpb_suspicious-activity-reports-elder-financial-exploitation_report.pdf (last visited Jan. 10, 2020).

²² *Id.* at 4.

²³ *Id.*

²⁴ FinCen, *Financial Trend Analysis: Elders Face Increased Financial Threat from Domestic and Foreign Actors*, 7 (Dec. 2019), https://www.fincen.gov/sites/default/files/shared/FinCEN%20Financial%20Trend%20Analysis%20Elders_FINAL%20508.pdf (last visited Jan. 10, 2020).

²⁵ *Id.* at 1.

²⁶ FINRA, *Regulatory Notice 17-11 (Financial Exploitation of Seniors)* (Mar. 2017), <https://www.finra.org/sites/default/files/Regulatory-Notice-17-11.pdf> (last visited Jan. 10, 2020).

- “Specified adult” is a natural person age 65 and older; or . . . a natural person age 18 and older who the [FINRA] member reasonably believes has a mental or physical impairment that renders the individual unable to protect his or her own interests.²⁷
- “Financial exploitation” means:
 - The wrongful or unauthorized taking, withholding, appropriation, or use of a specified adult’s funds or securities; or
 - Any act or omission by a person, including through the use of a power of attorney, guardianship, or any other authority regarding a specified adult, to:
 - Obtain control, through deception, intimidation or undue influence, over the specified adult’s money, assets, or property; or
 - Convert the specified adult’s money, assets, or property.²⁸

Under the new rules, FINRA members have the ability to contact a customer’s designated trusted contact person and, when appropriate, place a temporary hold on a disbursement of funds or securities from a customer’s account.²⁹ The temporary hold expires after 15 business days, but the FINRA member may extend the hold by up to an additional 10 business days if the member’s internal review of facts and circumstances supports its reasonable belief that the financial exploitation has occurred, is occurring, has been attempted, or will be attempted.³⁰

These rules took effect February 5, 2018.³¹ However, they do not apply to broker-dealers and investment advisers who are not FINRA members.

Mandatory Reporting for Abuse or Exploitation of Vulnerable Adults

The Florida Department of Children and Families (DCF) houses the Adult Protective Services Program (APS). APS is responsible for preventing further harm to vulnerable adults who are victims of abuse, neglect, exploitation, or self-neglect.³² Florida law currently contains a mandatory reporting requirement in ch. 415, F.S., the Adult Protective Services Act (APS Act), which states that any person “who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited shall immediately report such knowledge or suspicion to the Florida Abuse Hotline.”³³

The APS Act defines “vulnerable adult” and “exploitation” as follows:

- “Vulnerable adult” is a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.³⁴
- “Exploitation” means a person who:³⁵
 - Stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or
 - Knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the

²⁷ FINRA, *Rule 2165. Financial Exploitation of Specified Adults*, <https://www.finra.org/rules-guidance/rulebooks/finra-rules/2165> (last visited Jan. 10, 2020).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Florida Department of Children and Families, *Adult Protective Services: Protecting Vulnerable Adults*, <https://www.myflfamilies.com/service-programs/adult-protective-services/protecting-vulnerable-adults.shtml> (last visited Jan. 10, 2020).

³³ S. 415.1034(1)(a), F.S.; Florida Department of Children and Families, *Abuse Hotline: Report Abuse Online*, <https://www.myflfamilies.com/service-programs/abuse-hotline/report-online.shtml> (last visited Jan. 10, 2020).

³⁴ S. 415.102(28), F.S.

³⁵ S. 415.102(8), F.S.

use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.

- “Exploitation” may include, but is not limited to:³⁶
 - Breaches of fiduciary relationships, such as the misuse of a power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale, or transfer of property;
 - Unauthorized taking of personal assets;
 - Misappropriation, misuse, or transfer of moneys belonging to a vulnerable adult from a personal or joint account; or
 - Intentional or negligent failure to effectively use a vulnerable adult’s income and assets for the necessities required for that person’s support and maintenance.

The Florida Abuse Hotline screens allegations of child and adult abuse and neglect to determine whether the information meets the criteria of an abuse report.³⁷ If the criteria is met, a protective investigation is initiated to confirm whether or not there is evidence that abuse, neglect, or exploitation occurred; whether there is an immediate or long-term risk to the victim; and whether the victim needs additional services to safeguard his or her well-being.³⁸ APS services include:³⁹

- On-site investigation of reports of alleged abuse, neglect, exploitation or self-neglect;
- Determination of immediate risk to the victim and provision of necessary emergency services;
- Evaluation of the need for and provision of protective supervision; and,
- Provision of on-going protective services.

A person who participates in making a report to the Florida Abuse Hotline or who participates in a judicial proceeding resulting therefrom “is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from any liability, civil or criminal, that otherwise might be incurred or imposed.”⁴⁰

Effect of the Bill

The bill allows a dealer or investment adviser to delay a transaction on, or a disbursement of funds or securities from, an account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner if the dealer or investment adviser reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the transaction or disbursement. The dealer’s or investment adviser’s reasonable belief may be based on the facts and circumstances observed in such dealer’s or investment adviser’s, or an associated person’s, business relationship with the specified adult.

A “specified adult” is an individual who is age 65 or older or who meets the definition of “vulnerable adult” under the APS Act.

The bill defines “exploitation” to mean:

- The wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a specified adult, or any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of a specified adult, to:
 - Obtain control over the specified adult’s money, assets, or property through deception, intimidation, or undue influence to deprive him or her of the ownership, use, benefit, or possession of his or her money, assets, or property; or
 - Convert the specified adult’s money, assets, or property to deprive him or her of the ownership, use, benefit, or possession of his or her money, assets, or property.

The bill adds dealers, investment advisers, and associated persons to the list of specified mandatory reporters under the APS Act. If the exploitation involves a specified adult who meets the definition of a

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ S. 415.1036(1), F.S.

“vulnerable adult” under the APS Act, the dealer, investment adviser, or associated person must immediately notify DCF, via the Florida Abuse Hotline.⁴¹ The bill allows DCF to share the status or result of an investigation with the reporting dealer or investment adviser.

Additionally, within three business days after placing a delay, the dealer or investment adviser must:

- Provide written notice, which may be transmitted electronically, to all parties authorized to transact business on the account as well as any designated trusted contact,⁴² using the contact information provided for the account, of the delay and the reason for the delay, unless the dealer or investment adviser reasonably believes that any such party has engaged in, is engaging in, has attempted to engage in, or will attempt to engage in the suspected exploitation of the specified adult.
- Notify OFR either by telephone or in writing, which may be transmitted electronically, of the delay and the reason for the delay.

A delay expires 15 business days after the date on which the delay was placed. The dealer or investment adviser may extend the delay for up to 10 business days if its review of available facts and circumstances continues to support its reasonable belief that exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted. Within three business days after an extension, the dealer or investment adviser must notify OFR of the extension. The length of the delay may be shortened or extended at any time by a court of competent jurisdiction. The bill does not prevent a dealer or investment adviser from terminating a delay after communication with the parties authorized to transact business on the account and any trusted contact on the account.

A dealer or investment adviser subject to the jurisdiction of OFR must make available to OFR, upon request, all records relating to a delay or notification made by the dealer or investment adviser.

Before placing a delay on a transaction or disbursement, a dealer or investment adviser must have training policies or programs reasonably designed to educate associated persons on issues pertaining to exploitation, must develop and maintain written procedures regarding the manner in which suspected exploitation is required to be reported to the supervisory personnel, when applicable, and must conduct periodic training for all associated persons. The dealer or investment adviser must maintain a written record of compliance with these training requirements.

Any dealer, investment adviser, or associated person who delays or participates in the delay of a transaction or disbursement, who provides records to an agency of competent jurisdiction, or who participates in a judicial or arbitration proceeding resulting therefrom is presumed to be acting based upon a reasonable belief of exploitation and is immune from any civil or administrative liability that otherwise might be incurred or imposed, unless lack of such reasonable belief is shown by a preponderance of the evidence. The bill does not create new rights or obligations of a dealer, investment adviser, or associated person under other applicable laws or rules. In addition, the bill does not limit the right of a dealer, investment adviser, or associated person to otherwise refuse or place a delay on a transaction or disbursement under other applicable laws or rules or under an applicable customer agreement. Absent a reasonable belief of exploitation, the bill does not alter a dealer's, investment adviser's, or associated person's obligation to comply with instructions from a client to close an account or transfer an account to another dealer, investment adviser, or associated person.

B. SECTION DIRECTORY:

Section 1. Amends s. 415.1034, F.S., relating to mandatory reporting of abuse, neglect, or exploitation of vulnerable adults; mandatory reports of death.

Section 2. Creates s. 517.34, F.S., relating to protection of specified adults.

⁴¹ Chapter 415, F.S., does not require a person to report suspected exploitation of an adult age 65 or older who does not meet the definition of “vulnerable adult”.

⁴² The bill defines “trusted contact” to mean “a natural person 18 years of age or older whom the account owner has expressly identified and is recorded in a dealer’s or investment adviser’s books and records as a person who may be contacted about the account.”

Section 3. Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The fiscal impact to OFR is indeterminate and depends on the number of reports of delays or extensions received from OFR licensees.⁴³ In the event that OFR receives a large number of reports, OFR may need an additional FTE employee in the future to accommodate the new workload.⁴⁴ OFR would also incur insignificant costs associated with rulemaking, which can be absorbed within its current budget.⁴⁵ There is no fiscal impact to DCF because current law already mandates that any person report suspected abuse, neglect, or exploitation of vulnerable adults to the Florida Abuse Hotline; and investigation of such allegation is already a mandated function for the agency.⁴⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

As permitted by the bill, the placement of a delay on a transaction or disbursement, may decrease losses to investors who are financially preyed upon because such a delay may prevent the money from ever getting into the hands of the bad actor. Once the bad actor receives the money, it is difficult, or in some cases impossible, to ever recover the money. Given the inability to quantify avoidance of future losses to investors, the impact on the private sector is indeterminate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

⁴³ Email from Alex Anderson, Director of Governmental Relations for OFR, Fiscal impact HB 813 (Jan. 10, 2020).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Florida Department of Children and Families, Agency Analysis of 2020 House Bill 813 (Jan 6, 2020).

B. RULE-MAKING AUTHORITY:

The bill does not mandate rulemaking. However, ch. 517, F.S., provides the Financial Services Commission⁴⁷ authority to “adopt rules . . . to implement the provisions of [the chapter] conferring powers or duties upon [OFR], including, without limitation, adopting rules and forms governing reports.” S. 517.03(1), F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁴⁷ The Financial Services Commission (commission) is composed of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. S. 20.121(3), F.S. The commission members are OFR’s agency head for the purpose of rulemaking. S. 20.121(3)(c), F.S.